

LAFCO'S AGRICULTURAL MITIGATION POLICIES

LAFCO's mission is to discourage urban sprawl, preserve open space and prime agricultural lands, promote the efficient provision of government services and encourage the orderly formation of local agencies. LAFCO's current policies discourage premature conversion of agricultural lands, guide development away from existing agricultural lands and require the development of existing vacant lands within city boundaries prior to conversion of additional agricultural lands. In those cases where LAFCO proposals involve conversion of agricultural lands, LAFCO's current policies require an explanation for why the inclusion of agricultural lands is necessary and how such loss will be mitigated.

It is the intent of LAFCO to set forth through written policies, LAFCO's standards and procedures for providing agricultural mitigation for LAFCO proposals involving agricultural lands, consistent with LAFCO's current policies and LAFCO's mandate.

General Policies

1. LAFCO's Agricultural Mitigation Policy establishes minimum criteria and standards for providing agricultural mitigation for LAFCO proposals involving agricultural lands.
2. LAFCO requires adequate and appropriate agricultural mitigation for all LAFCO applications that impact or result in a loss of prime agricultural lands. Prime agricultural lands are defined in Policy #5.
3. LAFCO encourages cities with potential LAFCO applications involving or impacting agricultural lands to adopt agricultural citywide agricultural mitigation policies and programs that are consistent with this Policy.
4. When a LAFCO proposal impacts or involves a loss of prime agricultural lands, LAFCO encourages property owners, cities and agricultural conservation agencies to work together as early in the process as possible to initiate and execute agricultural mitigation plans, in a manner that is consistent with this Policy.
5. LAFCO will work with agricultural entities, the County, cities and other stakeholders to develop a program and public education materials to improve the community's understanding of the importance of agriculture in creating sustainable communities within Santa Clara County.
6. LAFCO will review these Policies as necessary, and determine if revisions are necessary to clarify and address issues in order to better achieve the stated intent.

Definition of Prime Agricultural Lands

57. Prime agricultural land as referred to in this policy means agricultural land that meets **any** of the following qualifications:
- Lands that are designated “Prime” or lands of “Statewide Importance” or “Unique Farmland” or lands of “Local Importance” by the State Department of Conservation as shown on the “Important Farmland Map” dated 2004.
 - Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.
 - Land that qualifies for rating 80 through 100 Storie Index Rating.
 - Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935.
 - Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.
 - Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.

Mitigation Requirements

86. Proposals involving the conversion of prime agricultural lands shall not be approved unless one of the following mitigations is provided at a not less than 1:1 ~~replacement~~ ratio (1 acre preserved for every acre converted) along with the payment of necessary funds as determined by the city / agricultural conservation entity (whichever applies) to cover the costs of program administration, land management, monitoring, enforcement and promotion of agriculture on the mitigation lands:
- ~~F~~The acquisition and transfer of ownership of agricultural land to an agricultural conservation entity for permanent protection of the agricultural land.
 - The acquisition and transfer of agricultural conservation easements to an agricultural conservation entity for permanent protection of the agricultural land.

- c. The payment of in-lieu fees to an agricultural conservation entity that are sufficient to fully fund:
 - 1. The acquisition of agricultural lands or agricultural conservation easements for permanent protection, and
 - 2. The cost of administering, managing, monitoring and enforcing the agricultural lands or agricultural conservation easements, as well as the costs of promoting agriculture on the mitigation lands.
- 97. Agricultural lands or conservation easements acquired and transferred to an agricultural conservation entity must be located in Santa Clara County, must be lands deemed acceptable to the city and entity and must be consistent with this Policy.
- 108. ~~The agricultural mitigation must~~ should result in preservation of land that would result in the preservation of land that promote the definition or creation of a permanent urban/agricultural edge and must be:
 - a. ~~Is Prime~~ prime agricultural land ~~and~~ of equivalent quality and character as measured by the Average Storrie Index rating and the Land Capability Classification rating, and
 - b. ~~Is~~ located within the city's sphere of influence in an area planned/envisioned for agriculture ~~that would otherwise be threatened/impacted in the reasonably foreseeable future by development, and~~
 - c. ~~Preferably will promote the definition or creation of a permanent urban/agricultural edge.~~
- 911. Because urban uses affect adjacent agricultural practices and introduce development pressures on adjacent agricultural lands, LAFCO requires encourages cities with LAFCO proposals impacting agricultural lands to adopt measures to preserve adjoining agricultural lands, to prevent their premature conversion to other uses, and to minimize potential conflicts between the proposed urban development and adjacent agricultural uses. - Examples of ~~Such measures must include, but are not limited to:~~
 - a. ~~The city requiring the e~~ Establishment of an agricultural buffer on the land proposed for development. The buffer's size, location and allowed uses must be sufficient to minimize conflicts between the adjacent urban and agricultural uses.
 - b. ~~The city adopting~~ Adoption of measures such as a Right to Farm Ordinance, to ensure that the new urban residents shall recognize the rights of adjacent property owners conducting agricultural operations and practices in compliance with established standards.

- c. ~~The city developing programs~~ Development of programs to ~~improve the community understanding of the necessity of agriculture in creating sustainable communities and~~ promoting the continued viability of surrounding agricultural land.
- d. ~~Other appropriate measures to satisfy the intent of this policy may also be adopted.~~

Agricultural Conservation Entity Qualifications

120. The agricultural conservation entity must be a city or a public or non-profit agency. The agricultural conservation entity must:
- a. Be committed to preserving local agriculture and must have a clear mission along with strategic goals or programs for promoting agriculture in the areas that would be preserved through mitigation,
 - b. Have the legal and technical ability to hold and administer agricultural lands and agricultural conservation easements and in-lieu fees for the purposes of conserving and maintaining lands in agricultural production and preferably have an established record for doing so, and
 - c. Have adopted written standards, policies and practices (such as the Land Trust Alliance's "Standards and Practices") for holding and administering agricultural lands, agricultural conservation easements and in-lieu fees and be operating in compliance with those standards.

Plan For Mitigation

113. A Plan for Agricultural Mitigation that is consistent with this Policy must be submitted at the time that a proposal impacting agricultural lands is filed with LAFCO.
142. The Plan for Mitigation shall include all of the following:
- a. An agreement between the property owner(s) and the city or between the property owner, city and agricultural conservation entity (if such an entity is involved) that commits the property owner(s) to provide the appropriate mitigation for the loss of prime agricultural lands and establishes the specifics of the mitigation in a manner consistent with this Policy. The agreement would be contingent on LAFCO approval. Upon LAFCO's conditional approval of proposal, the agreement must be recorded with the County Records' Office against the property to be developed.
 - b. Information on specific measures adopted by the city to demonstrate city's compliance with Policy #911.

- c. All other supporting documents and information to demonstrate compliance with this Policy. A checklist will be developed.

Timing and Fulfillment of Mitigation

153. LAFCO will require as a condition of approval that the agricultural lands or conservation easements be acquired and transferred or the in-lieu fees be paid within 2-3 years of ~~the~~ LAFCO's conditional approval. ~~This will provide the property owner with sufficient flexibility to meet the mitigation requirements while ensuring that agricultural mitigation is provided in a timely manner.~~
164. Upon fulfillment of the conditions of approval, LAFCO will issue a Certificate of Completion. The effective date of the boundary change will be the date of issuance of the Certificate of Completion.
175. If the conditions of approval are not met within 32 years, the conditional approval will expire applicant may apply to LAFCO for an extension, not exceeding 1 year. Any further consideration by LAFCO will require a new application.
186. The city will not be able to approve the related city-conducted annexation until the Certificate of Completion for an USA approval is issued.
197. ~~LAFCO will not accept other USA amendment proposals from the city until the agricultural mitigation is provided for the city's previous USA approvals.~~ LAFCO discourages submittal of additional USA amendment proposals involving agricultural lands if agricultural mitigation has not been completed for the city's previous approvals. Status of pending agricultural mitigation will be factor that LAFCO will consider in the evaluation of proposals involving agricultural lands.